

Resolution Agreement
Victoria Independent School District
OCR Complaint No. 06121382

Victoria Independent School District (VISD) voluntarily submits this Resolution Agreement (“Agreement”) to the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office. VISD commits to take the actions set forth below to ensure that the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulations at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulations at 28 C.F.R. Part 35, are met with regard to the allegations in the above-referenced complaint. This Agreement is not intended to constitute, nor shall it be construed to constitute, an admission by VISD of any violation of Section 504 or Title II. VISD hereby voluntarily commits to the following:

ACTION ITEM 1: Training/Education

- 1.1 By **September 5, 2014**, VISD will provide training to all VISD staff members who are directly involved in processing, investigating and/or resolving complaints or other reports of disability harassment, and any counselors or other VISD personnel who are likely to receive confidential reports of disability harassment. The training will include instruction regarding:
- (a) What type of conduct constitutes disability-based harassment, including examples, and a discussion about the negative impact that such harassment has on the educational environment;
 - (b) VISD’s responsibility under Section 504 and Title II to address disability-based incidents of harassment about which it knows or reasonably should have known;
 - (c) Identification of designated staff at VISD who is/are available to answer questions or concerns regarding VISD’s policies and procedures or other issues related to disability-based harassment;
 - (d) VISD’s responsibility to take immediate and appropriate action to investigate reports of disability-based harassment pursuant to Board Policy FFH;
 - (e) How to conduct disability harassment investigations in an adequate, reliable, and impartial manner, including the appropriate standards to apply in such investigations, and an outline of the appropriate disciplinary measures for violations of VISD’s anti-harassment policy in accordance with VISD’s Student Code of Conduct;
 - (f) VISD’s responsibility to take prompt and effective steps reasonably calculated to end identified disability harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring;
 - (g) VISD’s duty to respond to incidents of disability harassment even if the misconduct also is covered by an anti-bullying policy, and regardless of whether a student, parent, or other person has complained, filed a formal complaint or grievance, asked the school to take action, or identified the harassment as a form of discrimination; and
 - (h) Notice of the existence and substance of OCR’s July 25, 2000, Dear Colleague Letter (<http://www2.ed.gov/ocr/docs/disabharassltr.html>) addressing the responsibilities of district personnel in the context of disability-based harassment (providing a printed copy of said Letter to all trainees, including its <http://> citation).

1.2 By **September 5, 2014**, VISD will formally reaffirm in writing to students, staff, and parents its obligation to address incidents of harassing conduct based on disability that are sufficiently severe, pervasive or persistent so as to create a hostile environment, consistent with its harassment policy, and the regulatory requirements of Section 504 and Title II. The statement will include the appropriate contact information for the staff member(s) designated as the official(s) to whom students and parents may report allegations of harassment and will warn that students found to have engaged in acts of harassment or other acts that create a hostile environment based on disability will be promptly disciplined in accordance with VISD's Student Code of Conduct.

1.3 By **September 26, 2014**, VISD will provide to all VISD secondary school students an orientation program addressing harassment, including, but not limited to, harassment based on disability, in order to promote respect and tolerance for others and to avert the establishment of a hostile environment based on disability for students enrolled in VISD. The orientation will include:

- (a) A reminder of VISD's commitment to maintaining a school environment free from all harassment and an explanation regarding what students should do if they believe they or other students are being harassed;
- (b) A review of VISD's harassment policies and procedures, including the definition of disability harassment, as well as a description of the disciplinary sanctions related to findings of violations of its harassment policies and the policy prohibiting retaliation; and
- (c) The name and contact information of one or more VISD employees, such as a counselor, whom students may contact if they wish to confidentially discuss any harassment-related concerns they may have.

REPORTING REQUIREMENTS:

1.4 By **September 19, 2014**, VISD will provide documentation to OCR evidencing that the training required by Action Item 1.1 has been completed, including the identity of the individual(s) who conducted the training and the individual('s') qualifications, along with a copy of the materials or a summary of the material covered in such training and sign-in sheet(s) or other documentation showing who attended the training.

1.5 By **September 19, 2014**, VISD will submit a written report to OCR documenting how and when the written notifications described in Action Item 1.2 were issued. VISD will also submit copies of the notifications to OCR.

1.6 By **October 10, 2014** VISD will provide documentation to OCR evidencing that the orientation program required by Action Item 1.3 has been completed, including the identity of the individual(s) presenting the orientation program and the individual('s') qualifications, along with a copy of the materials or a summary of the material covered in such orientation program.

ACTION ITEM 2: Student Remedies

2.1 By **April 7, 2014**, VISD will provide the complainant with a written offer to convene a placement meeting (i.e., IEP meeting or Section 504 committee meeting) regarding the complainant’s XXXXXXXX, XXXXXXXX XXXXXXXXXXXX (“Student”), contingent upon the Student’s re-enrollment in VISD, to determine whether the Student, in order to receive a free appropriate public education (FAPE), must be provided any compensatory education or related aids and services resulting from XXX XXXXXXXXXXX XXXXXXXXXXXXXXX XXXXXXXXXXX XXXX XXX XX XXXX, XXXXXXXX XXX XXXXXXXXXXXX XX XXX XXXX-XXXX school year, from alleged disability-based harassment, or from any alleged failure to implement her IEP during the XXXX-XXXX school year.

2.2 If the complainant accepts VISD’s offer and re-enrolls the Student in VISD, VISD will conduct said meeting **within thirty (30) calendar days** of receiving notice of the acceptance. If the Section 504 committee determines that compensatory services are necessary for the Student, then **within twenty (20) calendar days** of said determination, a plan will be developed that specifies the services to be provided to the Student, the manner in which the services will be provided, when the services will be provided, the individuals responsible for providing the services, and the length of time the services will be provided.

2.3 Should the meeting referenced in Section 2.1 above take place, **within seven (7) calendar days of the meeting**, VISD will notify the complainant in writing (via certified mail, return receipt requested) of the determinations made pursuant to Action Items 2.1 and 2.2, and will provide the complainant notice of VISD’s system of procedural safeguards.

2.4 If the complainant accepts VISD’s offer and re-enrolls the Student in VISD, **within thirty (30) calendar days** of the Student’s re-enrollment, VISD will develop for the Student an individual safety plan that will address specific steps to be taken by VISD in an effort to prevent and adequately respond to any further incidents of alleged disability-based harassment of the Student for the remainder of the Student’s enrollment in VISD. VISD will convene one or more meetings to develop the Safety Plan. The meeting(s) will include the Student’s parents and relevant VISD staff. VISD will provide the Student’s parents with a reasonable choice of three different meeting dates/times.¹ The plan will, at a minimum, include the following:

- (a) Notification to the Student’s teachers and other relevant VISD staff, including, but not limited to, security personnel, librarians, aides, and any other staff responsible for the instruction or supervision of the Student, that VISD is monitoring the Student’s environment to prevent the occurrence of disability-based harassment. The notification will explain the District’s responsibilities under Section 504 and Title II and the relevant VISD policies, and will direct staff to report any information they receive regarding possible harassment of the Student to the School Principal, or a designated VISD administrator;

¹ If the parents do not confirm participation, the District will develop the Safety Plan without consultation from the parents.

- (b) Monitoring of the Student’s safety when the Student is on campus before, during, and after school in non-classroom settings, including the hallways, locker room, and outside areas. The monitoring will be conducted by an individual, who will be identified in the Safety Plan, who has received training on disability-based harassment and the relevant VISD policies and reporting procedures;
- (c) Assignment of a VISD staff member to remain with the Student during school hours. The staff member will receive the training outlined in Action Item 1.1.
- (d) A system of providing immediate notification to the Student’s parents of any future incidents of possible disability-based harassment involving the Student, reported by the Student or any other person; and
- (e) A system to evaluate the effectiveness of the Safety Plan and make necessary modifications, including meeting to reevaluate the Safety Plan, prior to the beginning of the 2014-2015, 2015-2016, and 2016-2017 school years if the Student remains enrolled in VISD.

REPORTING REQUIREMENTS:

2.5 By **April 21, 2014** VISD will provide written documentation to OCR evidencing that Action Item 2.1 has been completed.

2.6 If the meeting referenced in Section 2.2 above takes place, and the committee determines that compensatory services are not necessary for the Student to receive a FAPE, then **within fourteen (14) calendar days** of said determination, VISD will provide documentation to OCR evidencing how the committee made this determination, including the information relied upon in making its decision. In addition, this report should include, at a minimum, meeting minutes and related documentation evidencing that the meeting occurred (if it did), a written statement reflecting the determination made by the committee with regard to compensatory services, and notices provided to the complainant in accordance with Action Item 2.3.

2.7 If the meeting referenced in Section 2.2 above takes place, and the committee determines that compensatory services are necessary for the Student to receive a FAPE, then **within fourteen (14) calendar days** after the services have been provided in full, VISD will provide documentation to OCR evidencing that the compensatory services identified have been provided, including information regarding the specific services provided and the individuals responsible for providing the services; the manner in which the services were provided; and the length of time the services were provided.

2.8 **Within fourteen (14) calendar days** of the issuance of the notice, VISD will submit to OCR a copy of the written notice issued in accordance with Action Item 2.4 (if applicable).

2.9 **Within seven (7) calendar days** of its completion, VISD will submit a draft of the Safety Plan and proposed notification to the Student’s teachers and staff to OCR for review and

approval (if applicable). The Safety Plan will be implemented and the notification sent within five school days of OCR’s approval.

VISD understands that OCR will not close the monitoring of this Agreement until OCR determines that it has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4 and 104.33; and Title II, at 28 C.F.R. § 35.130, which were at issue in this case.

VISD understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements contained herein. Further, VISD understands that during the monitoring of this Agreement, if necessary, OCR may visit VISD, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether VISD has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4 and 104.33, and Title II, at 28 C.F.R. § 35.130, which were at issue in this case.

VISD understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give VISD written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Robert Jaklich, Superintendent,
or District Representative

Date

Printed Name and Title